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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,294	07/10/2000	Peter Hauber	BLDR-01	9656

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicati n N .

09/613,294

Applicant(s)

HAUBER, PETER

Examiner

Carlos Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on November 9, 2003.

#### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the 4 bar linkage (Figure 2C only show 2 bars 58 and 62) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- Elements 49 and 55 are not illustrated in the drawings.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-3 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 3,353,855 to Smith.

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Regarding claim 1, Smith discloses a sliding door latch assembly. The assembly comprises a vertically extended housing (14) having a vertically disposed pull handle (136) opposite a housing locus extending over a major portion but not all of the vertical extend of the housing.

A latch (11) is mounted on the locus and shiftable to and from the housing for locking a sliding door to a cooperating keeper (32) mounted in a sliding door jamb (Figure 4) opposite the latch.

A rotary actuator (114,115,120 and 124) is located within the housing locus for shifting the latch.

A hand-operated lever (100 and 110) is rotatably mounted to the housing beyond the housing locus and being vertically spaced in a predetermined distance from the rotary actuator (Figures 1 and 3).

As to claim 2, Smith illustrates that the latch is a hook-shaped and that the cooperating keeper comprises a slot.

As to claim 3, Smith illustrates that the housing has a rectangular cross section.

6. **Claims 1-7 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 3,177,687 to Tucker.

Regarding claim 1, Tucker discloses a sliding door latch assembly. The assembly comprises a vertically extended housing (11) having a vertically disposed pull handle (12 and 18) opposite a housing locus extending over a major portion but not all of the vertical extend of the housing.

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A latch (36) is mounted on the locus and shiftable to and from the housing for locking a sliding door to a cooperating keeper mounted in a sliding door jamb opposite the latch.

A rotary actuator (22) is located within the housing locus for shifting the latch.

A hand-operated lever (50) is rotatably mounted to the housing beyond the housing locus and being vertically spaced in a predetermined distance from the rotary actuator (Figures 3 and 4).

As to claim 2, Tucker discloses that the latch is a hook-shaped (36) and that the cooperating keeper comprises a slot.

As to claim 3, Tucker illustrates that the housing (11) has a rectangular cross section.

As to claims 4 and 6, Tucker discloses that the lever (50) further includes a rotatable lever plate (45), wherein the lever plate and the lever are mounted to a common pivot (Figure 4).

As to claim 5, Tucker discloses that the rotary actuator further includes a rotatable latch plate (26), wherein the rotatable latch plate and rotary actuator are mounted to a common pivot (Figure 3).

As to claim 7, Tucker discloses that the sliding door latch further includes a pair of bars (30 and 32) fixed to and extending between the lever plate and the rotatable latch plate.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 8-12 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,177,687 to Tucker.

Regarding claim 8, Tucker fails to disclose that the length of the bars extends from within the housing locus to beyond the housing locus. Tucker illustrates that the length of the bars does not extend the housing locus.

However, applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a pair of bars that extends the housing locus, because it is considered a change in size that will not affect the movement of the latch.

As to claim 9, Tucker discloses that the latch is a hook-shaped (36) and that the cooperating keeper comprises a slot.

As to claim 10, Tucker illustrates that the housing (11) has a rectangular cross section.

As to claim 11, Tucker discloses that the pull handle (18) is an inside handle and also includes an outside handle (12) fixed to the housing.

As to claim 12, Tucker illustrates that the door-sliding latch includes a leading stile that defines the housing (Figures 2-4).

9. **Claim 13 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,177,687 to Tucker in view of US Pat No 3,413,025 to Sperry.

Tucker fails to disclose that a 4-bar coupling is used between the latch and the lever. Tucker disclose the use of a 2 bar coupling (30 and 32).

Sperry teaches that is known in the art to have a 4-bar coupling (90,92 and 94) in a door latching assembly.

Applicant is reminded that duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a 4-bar coupling, as taught by Sperry, into a latch assembly as described by Tucker, because it consider as a duplication of components that will not affect the movement of the latch.

### ***Response to Arguments***

10. Applicant's arguments filed on November 9, 2003 have been fully considered but they are not persuasive.

Regarding applicant's arguments that Smith fails to disclose "a housing locus that the pull handle is opposite", that "a hand-operated lever is rotatably mounted to the housing beyond the housing locus", and that "housing locus is opposite the pull handle" (Page 8 Line13), Smith discloses this limitation.

First, the word locus means "the place where something is situated". Smith illustrates a pull handle (136) that is opposed to a housing locus or point of situation at the housing (where the handle is situated at each end). The hand-operated lever (110) is rotatably mounted to the housing beyond the housing locus or point of situation at the housing (Figure 1).

Because the applicant fails to clearly define the borders of the housing and precisely locate the housing locus or point or place where something is situated, any convenient point or place is examine. Therefore, Smith discloses the invention as claimed.

As to applicant's arguments that Tucker fails to disclose the same point as in Smith (Page 9 Line 5), the same argument presented previously to Smith is presented here. Therefore, Tucker also discloses the invention as claimed.

As to applicant's arguments that Sperry fails to disclose the main limitations of the invention (Page 10 Line 10), Sperry is only used to teaches that is known in the art to have a 4-bar coupling (90,92 and 94) in a door latching assembly. Tucker already discloses the main limitations.

### ***Conclusion***

**11. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

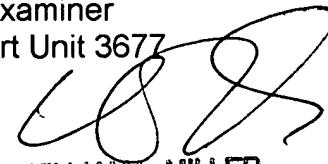
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

January 13, 2004.

Carlos Lugo  
Examiner  
Art Unit 3677



**WILLIAM L. MILLER**  
**PRIMARY EXAMINER**